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PTO/SB/64 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
Foster "DX"

First named inventor: Raymond Keith Foster

Application No.: 10/743,992

Art Unit: 3651

Filed: December 23, 2003

Examiner: James R. Bidwell

Title: RECIPROCATING FLOOR CONVEYOR WITH SPLASH GUARD BEARINGS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☒ Small entity-fee \$ 685.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 965.00

- ☐ has been paid previously on _____.
- ☒ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.


Signature

November 4, 2004

Date

Delbert J. Barnard

Typed or printed name

20,515

Registration Number, if applicable

PO BOX 58888

Address

206-381-3100

Telephone Number

Seattle, WA 98138

Address

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: Fee Transmittal - Issue and Publication Fees

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

November 4, 2004

Date


Signature

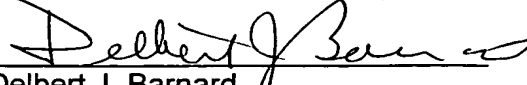
DELBERT J. BARNARD

Typed or printed name of person signing certificate

PATENT APPLICATION



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 4, 2004.


Delbert J. Barnard
Registration No. 20,515

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3651
Examiner: James R. Bidwell
Applicant: Raymond Keith Foster
App. No.: 10/743,992
Filed: December 23, 2003
For: RECIPROCATING FLOOR CONVEYOR
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LETTER ACCOMPANYING PETITION FOR REVIVAL

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Official Draftsman

Sir:

On November 1, 2004, the Office of Barnard, Loop & McCormack LLP (formerly Barnard & Pauly, P.S.) received a Notice of Abandonment dated October 27, 2004, relating to the above-identified Application. The Notice informed the undersigned that the subject Application had become abandoned for failure to pay the issue fee and publication fee that were due on September 21, 2004.

Enclosed is a Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b), together with the Petition Fee, the Fee Transmittal Form, the Issue Fee, the Publication Fee, and an Advanced Order for 10 copies of the Patent.

Leslie Moss, the firm's docket clerk for over twenty years, left the employment of the firm on August 5, 2004 so that she could spend more time with her two children during the new school year. She also planned to look for a job that was less demanding on her time so that she could find time to participate in school activities with her children. Ms. Moss was replaced by Jolene McCracken, an experienced paralegal and docket clerk who had worked for other patent law firms. Ms. McCracken was responsible for all docket activities including the payment of issue fees and maintenance fees as they became due. Ms. McCracken did not meet the needs of the firm and for that reason she was discharged in October of this year. While she was our docket clerk, she transformed our docket records from a paper system to an electronic system and as new matters came in that needed to be docketed she entered them into the electronic system. We started having trouble with our server and we lost a lot of information including information from our docket system and from our financial records. We had to go back to files and other raw data and reconstruct new records. In the process, we went back to a paper docket system. We also purchased two new servers and put our office records on one and are using the other one for e-mails. Part of the problem that we had with our old server was that incoming e-mails would cause failures in the server.

App. No. 10/375,225
Date: November 4, 2004

Almost immediately after Ms. McCracken was terminated, we started a file by file review to find the necessary data for reconstructing our docket system. The Notice of Abandonment was received in this application before we reached the application for review. The invention that forms the subject matter of the application is important to our client and neither our client nor us intended to abandon the application.

The Office is requested to grant the Petition For Revival Of Application Serial No. 10/743,992.

The Office is authorized to charge any additional costs that may be necessary to Deposit Account No. 02-0915. A duplicate copy of this letter is enclosed.

Respectfully submitted,

Raymond Keith Foster

By: 

Delbert J. Barnard
Attorney for Applicant
Barnard, Loop & McCormack LLP
Registration No. 20,515
(206) 381-3100

DJB/ks